

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF N CALIFORNIA
617
CV 10-~~547~~ SC

DIGBY ADLER GROUP LLC
v.

IMAGE RENT A CAR INC AND VAN RENTAL CO INC
Defendants.

FILED
2010 MAR -4 P 2:33
RICHARD W. WIEKING,
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANTS RULE 12(b)(2) MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION AND, IN THE ALTERNATIVE, MOTION TO DISMISS FOR IMPROPER VENUE AND MOTION TO TRANSFER VENUE

Defendants , (collectively referred to herein as "Defendants"), , submit this their Motion to Dismiss for Lack of Personal Jurisdiction pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure, and in the alternative, submit their Motion to Dismiss for Improper Venue and Motion to Transfer Venue pursuant to 28 U.S.C. §§ 1404(a) and 1406, and respectfully show the Court as follows:

NEITHER OF DEFENDANTS HAVE A BUSINESS , nor have an office, employees, agents, representatives, or accounts in CALIFORNIA , and should not be subject to the jurisdiction of CALIFORNIA courts. DEFENDANTS have no office, employees, agents, representatives, or accounts in CALIFORNIA and should not be subject to the jurisdiction of CALIFORNIA courts.

I.
MOTION TO DISMISS BASED ON LACK OF PERSONAL JURISDICTION

Defendants contend that this Honorable Court lacks personal jurisdiction over Defendants and moves for dismissal of Plaintiffs' claims and causes of action because: (1) Defendants did not irrevocably consent to the jurisdiction of CALIFORNIA Courts, (2) Defendants did not purposefully direct any of their activities to CALIFORNIA with the intent of engaging in business in CALIFORNIA ; (3) this court lacks general jurisdiction over Defendants because Defendants contacts with CALIFORNIA , if any, are not continuous and systematic, and (4) exercising Jurisdiction over Defendants would offend traditional notions of fair play and substantial justice.

II.

ALTERNATIVE MOTION TO DISMISS FOR IMPROPER VENUE

Alternatively, Defendants contend that Plaintiffs' claims against them are based on federal questions; therefore, venue is governed by 28 U.S.C. § 1391(b)., Defendants assert

that venue in CALIFFORNIA is improper because (1) no defendants do no business in California, (2) none of the events or omissions giving rise to the claim occurred in California, and (3)

the Federal District Court for the eastern dist. of NY is an available and adequate venue for Plaintiffs' claims and causes of action. 28 U.S.C. § 1331(b).

III.

ALTERNATIVE MOTION TO TRANSFER TO THE FEDERAL DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

In the alternative and without waiving the foregoing, Defendants assert that this court should, for the convenience of the parties and witnesses and in the interest of justice, transfer this case to the Federal District Court for the EASTERN District of NY. Defendants contend that, under 28 U.S.C. 1404(a), convenience transfer is warranted by the (1) interests of justice, (2) convenience of the witnesses, (3) convenience of the parties, (4) financial strength of the parties, and the (5) costs of obtaining attendance of willing witnesses..

IV.

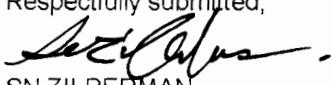
SUPPORTING EVIDENCE

This motion is supported by the pleadings and papers on file in this case, the attached Memorandum of Points and Authorities, the arguments of counsel, if any, and the following Exhibits:

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants, respectfully request that this Court grant their Motion to Dismiss for Lack of Personal Jurisdiction, or alternatively, grant their Motion to Dismiss for Improper Venue or their Motion to Transfer Venue and transfer this case to the EASTERN DISTRICT OF NY , and for such other and further relief, both general and special, at law and in equity, to which Defendants may show themselves to be justly entitled.

Respectfully submitted,


SN ZILBERMAN
VP IMAGE RENT A CAR INC

ES COLIN
VP VAN RENTAL C



7193639505

CERTIFICATE OF SERVICE

I hereby certify that on this the 28 day of FEB , 2010 , a true and correct copy
of the foregoing document was served upon all counsel of record at his address of record


S ZILBERMN